THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10564 of 2007

Dated:25.07.2007

Between:

Kodela Ilaiah, S/o.Mallaiah,
and others.

…Petitioners

and

The District Collector,
Medak District, at Sangareddy,
and others.

…Respondents

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ORDER:

The petitioners herein are brothers. They are the sons of late Mallaiah. It is alleged that the first petitioner purchased an extent of Acs.8.11 guntas of land in Survey No.273 situated at Arepally Village, Hamlet of Velikatta of Kondapak Mandal in Medak District, from Sri Tandra Venkata Krishna Reddy, son of Raji Reddy, under an unregistered (simple) sale deed dated 07.01.1970. The petitioners allege that the land was not cultivable at the time of purchase. They put efforts, dug bore well and made it suitable for cultivation. They also applied to the Mandal Revenue Officer under Section 5-A of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the ROR Act'), seeking regularization of unregistered document in their favour. The same is still pending, in spite of representations, allegedly, made by the petitioners to the Mandal Revenue Officer and the District Collector. It is alleged that the Mandal Revenue Officer, Kondapak, directed the petitioners not to enter the land. The petitioners were informed that it is Government land having

taken over as ceiling surplus under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short 'the Land Reforms Act'). They, therefore, filed the instant Writ Petition seeking a writ of mandamus directing the respondents not to dispossess the petitioners and also direct the respondents to regularize the simple sale deed dated 07.01.1970 under Section 5-A of the ROR Act.

The matter was initially heard by this Court on 06th and 10th of July 2007. Learned Assistant Government Pleader for Revenue (General-T) brought to the notice of this Court that the petitioners are not in possession, and that the land is assigned to landless poor persons. He sought time for filing counter. A counter affidavit is filed on 17.07.2007. Therefore, the matter is heard finally.

In the counter affidavit it is stated that Venkata Krishna Reddy filed a declaration under the provisions of the Land Reforms Act, being C.C.No.S/3074/75, that he was declared surplus landholder to an extent of 2.5181 standard holdings, and that he and his sons surrendered an extent of Acs.8.11 guntas in Survey No.273. It is also alleged that the land was taken over possession by the revenue authorities and assigned to poor persons. It is categorically stated that the petitioners are not in possession of the land, and that the unregistered document does not confer any right on the petitioners. The petitioners have filed reply affidavit denying the allegations.

This Court has heard the learned Counsel for the petitioners and the learned Assistant Government Pleader. It is submitted on behalf of the petitioners that the petitioners are in possession of the land for more than thirty years, and their applications are pending under Section 5-A of the ROR Act, and that any interference by the Mandal Revenue Officer without regularizing the sale in their favour is arbitrary and illegal. **Per contra**, the learned Assistant Government Pleader has placed reliance on the declaration filed by Venkata Krishna Reddy, the proceedings of the Land Reforms Tribunal, and the order of the Land Reforms Appellate Tribunal, dated 09.02.1995, and contends that Venkata Krishna Reddy filed a declaration on 10.04.1975, but he never even mentioned that the land in Survey No.273 is the land, which is in possession of the petitioners by virtue of an unregistered sale deed. Secondly, he submits that pursuant to the orders of the Land Reforms Tribunal, as confirmed by the Land Reforms Appellate

Tribunal, the Government took possession of the land and assigned to landless poor persons and the petitioners are not in possession of the land.

This Court has perused the declaration filed by Venkata Krishna Reddy, the alleged vendor of the first petitioner, as well as the proceedings of the Land Reforms Tribunal and the order of the Land Reforms Appellate Tribunal. As rightly contended, the land was never claimed to have been sold to the first petitioner by the declarant. The petitioners contend that at the time of purchase the land was uncultivable land and they developed the same. If that be so, Venkata Krishna Reddy ought to have claimed the same land as Pot-Kharab. Curiously, he did not do so. He claimed the land admeasuring Acs.5.96 guntas in Survey Nos.118, 214, 238, 240, 274, 275 and 276. He claimed an extent of Ac.0.23 guntas only in Survey No.273 as Pot-Kharab. Therefore, the submission cannot be accepted. Secondly, the Land Reforms Tribunal accepted the surrender to an extent of Acs.50.69 guntas including the land in Survey No.273 admeasuring Acs.8.28 guntas. The proceedings before the Land Reforms Tribunal carry a presumption that they were taken out in the ordinary course of official business and they carry much weight than the unsubstantiated statement of the petitioners. Lastly, though the petitioners denied the counter averments that the land has been assigned to others, the petitioners relied on five third party affidavits allegedly given by the residents of Arepally Village. Having regard to the clinching evidence produced by the respondents, much credence cannot be granted to these third party affidavits.

The Writ Petition is misconceived, and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

25.07.2007
vs